

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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IN RE PHARMACEUTICAL INDUSTRY	)	
AVERAGE WHOLESALE PRICE	)	MDL No. 1456
LITIGATION	)	
	)	CIVIL ACTION: 01-CV-12257 PBS
THIS DOCUMENT RELATES TO	)	
Master File No. 01-CV-12257-PBS	)	Judge Patti B. Saris
	)	
	)	Chief Mag. Judge Marianne B. Bowler
	)	

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**STATUS REPORT JANUARY 1, 2005**

Pursuant to the Court's June 17, 2004 Procedural Order, the undersigned counsel for Plaintiffs and Defendants hereby submit the attached status report to the Court listing the status of all pending motions to date.

Respectfully Submitted,

PLAINTIFFS' LEAD COUNSEL  
ON BEHALF OF ALL PLAINTIFFS

By /s/ Thomas M. Sobol

DATED: January 1, 2005

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**CERTIFICATE OF SERVICE**

I hereby certify that I, Thomas M. Sobol, an attorney, caused a true and correct copy of the foregoing Status Report to be served on all counsel of record electronically on January 1, 2005, pursuant to Section D of Case Management Order No. 2.

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**MDL 1456 STATUS CHART – GOVERNMENT ENTITY CASES**

GOVERNMENT ENTITY CASES	MDL DOCKET NUMBER	ORIGINAL JURISDICTION	STATUS
Montana v. Abbott Labs., Inc. et al.	02-CV-12084-PBS	Removed to D. Mont.	<ul style="list-style-type: none"> <li>• September 10, 2004 – <b>B. Braun of America Inc.’s Renewed Motion to Dismiss the State of Montana’s Second Amended Complaint <i>sub judice</i></b> <ul style="list-style-type: none"> <li>◦ September 24, 2004 – Plaintiff State of Montana’s Opposition to B. Braun of America Inc.’s Renewed Motion to Dismiss, including <b>Cross-Motion for Stay Pending Resolution of Class Plaintiffs’ Motion to Compel B. Braun of America Inc. to Make Supplemental Rule 30(b)(6) Designation <i>sub judice</i></b> <ul style="list-style-type: none"> <li>▪ Cross-motion is now moot.</li> </ul> </li> <li>◦ September 30, 2004 – B. Braun of America Inc.’s Opposition to Montana’s Cross-Motion for Stay Pending Resolution of Class Plaintiffs’ Motion to Compel B. Braun of America Inc. to Make Supplemental 30(b)(6) Designation</li> </ul> </li> <li>• November 24, 2004 – <b>Watson Pharmaceuticals, Inc.’s Motion to Dismiss the State of Montana’s Second Amended Complaint</b> <ul style="list-style-type: none"> <li>◦ December 8, 2004 – State of Montana’s Opposition to Motion to Dismiss the State of Montana’s Second Amended Complaint</li> <li>◦ December 16, 2004 – Watson Pharmaceuticals, Inc.’s Reply Memorandum in Support of Motion to Dismiss the State of Montana’s Second Amended Complaint (leave to file granted December 21, 2004)</li> </ul> </li> </ul>
Nevada v. American Home Products, Inc. et al (“Nevada II”)	02-CV-12086-PBS	Removed to D. Nev.	<ul style="list-style-type: none"> <li>• November 24, 2004 – <b>Watson Pharmaceuticals, Inc.’s Motion to Dismiss the State of Nevada’s Amended Complaint</b> <ul style="list-style-type: none"> <li>◦ December 8, 2004 – State of Nevada’s Opposition to Motion to Dismiss the State of Nevada’s Second Amended Complaint</li> <li>◦ December 16, 2004 – Watson Pharmaceuticals, Inc.’s Reply Memorandum in Support of Motion to Dismiss the State of Nevada’s Second Amended Complaint (leave to file granted December 21, 2004)</li> </ul> </li> </ul>
California ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Labs., Inc. et al.	03-CV-11226-PBS	Removed to C.D. Cal.	<ul style="list-style-type: none"> <li>• No pending motions</li> </ul>
County of Nassau v. Abbott Labs.,	n/a	E.D.N.Y.	<ul style="list-style-type: none"> <li>• December 10, 2004 – Notice of Related Action filed with the Judicial Panel on</li> </ul>

GOVERNMENT ENTITY CASES	MDL DOCKET NUMBER	ORIGINAL JURISDICTION	STATUS
Inc. et al.			Multidistrict Litigation
County of Suffolk v. Abbott Labs., Inc. et al.	03-CV-10643-PBS	E.D.N.Y.	<ul style="list-style-type: none"> <li>• Certain Defendants' Motions to Dismiss Suffolk County's Amended Complaint <i>sub judice</i> <ul style="list-style-type: none"> <li>○ October 26, 2004: <b>Memorandum and Order</b> dismissing Purdue Pharma L.P., Ivax Corporation, and Ivax Pharmaceuticals, Sanofi-Synthelab Inc., and Aventis Pharmaceuticals Inc. and deferring ruling on individual motions to dismiss filed by the "Suffolk 13" and individually by certain other defendants, and ordering plaintiff to make disclosures and provide more definitive statement pursuant to Fed. R. Civ. P. 12(e).</li> <li>▪ November 16, 2004 – Suffolk County's Affidavit of Aaron D. Hovan Providing (1) Methodology and Documents Used to Estimate AWP Spread and (2) Additional Information Regarding Defendants filed in Response to October 26, 2004 Order</li> <li>▪ November 30, 2004 – Individual and Joint Responses to Suffolk County's Supplemental Filing in Response to the Court's October 26, 2004 Order</li> <li>▪ December 8, 2004 – Suffolk County's Motion for Leave to File a Reply in Further Response to the Court's October 26, 2004 Order</li> </ul> </li> <li>• November 24, 2004 – <b>County of Suffolk's Motion to Compel the Production of Electronic Discovery from the Schering Plough Defendants</b> <ul style="list-style-type: none"> <li>○ December 8, 2004 – Schering Plough's Opposition to County of Suffolk's Motion to Compel the Production of Electronic Discovery</li> <li>○ December 23, 2004 – County of Suffolk's Motion for Leave to File a Reply to Schering Plough's Opposition to Motion to Compel the Production of Electronic Discovery</li> </ul> </li> </ul>
County of Rockland v. Abbott Labs., Inc. et al.	03-CV-12347-PBS	S.D.N.Y.	<ul style="list-style-type: none"> <li>• No Pending Motions</li> <li>• Stipulation in place extending defendants' time to answer until 30 days after decision on motions to dismiss Suffolk County complaint</li> </ul>
County of Westchester v. Abbott Labs., Inc. et al.	n/a	S.D.N.Y.	<ul style="list-style-type: none"> <li>• No Pending Motions</li> <li>• Stipulation in place extending defendants' time to answer until 30 days after decision on motions to dismiss Suffolk County complaint</li> </ul>

GOVERNMENT ENTITY CASES	MDL DOCKET NUMBER	ORIGINAL JURISDICTION	STATUS
<b>City of New York v. Abbott Labs., Inc. et al.</b>	n/a	S.D.N.Y.	<ul style="list-style-type: none"><li>September 24, 2004 – Conditional transfer order issued by Judicial Panel on Multidistrict Litigation; no opposition filed.</li></ul>

**MDL 1456 STATUS CHART – PRIVATE CLASS CASES**

PRIVATE CLASS CASES	MDL DOCKET NO.	ORIGINAL JURISDICTION	STATUS
<b>Master Consolidated Class Action</b>	Master File 01-CV-12257-PBS	D. Mass. pursuant to JPML Order	<ul style="list-style-type: none"> <li>• April 27, 2004 – <b>Plaintiff Suffolk County's Motion Respecting Coordinated Discovery <i>sub judice</i></b> <ul style="list-style-type: none"> <li>○ May 11, 2003 – Response of Liaison Counsel to Suffolk County's Motion Respecting Coordinated Discovery</li> <li>○ May 24, 2004 – Plaintiff Suffolk County's Reply on Motion Respecting Coordinated Discovery</li> <li>○ May 26, 2004 – Plaintiffs' Motion to File A Surreply In Opposition to Suffolk County's Reply on Motion Respecting Coordinating Discovery; Liaison and Plaintiff Counsels' Surreply to Suffolk County's Reply on Motion Respecting Coordinated Discovery</li> <li>○ May 28, 2004 – Memorandum of Bristol-Myers Squibb Company in Response To The Motion Of County Of Suffolk Addressing The Role Of Liaison Counsel For All Plaintiffs</li> <li>○ May 28, 2004 – Response of Liaison Counsel to BMS Memorandum Addressing the Role of Liaison Counsel</li> <li>○ June 22, 2004 – Order Granting Plaintiffs' Motion for Leave to File a Surreply in Opposition to Suffolk County's Reply on Motion Respecting Coordinating Discovery</li> </ul> </li> <li>• May 3, 2004 – <b>Plaintiffs' Motion to Compel The Production of Documents Created During the Relevant Time Period from Defendants Abbott Laboratories, Astrazeneca, Schering Plough, Sicor and Together Rx Defendants <i>sub judice</i> (Magistrate Bowler)</b> <ul style="list-style-type: none"> <li>○ May 17, 2004 – Certain Defendants' Notice of Opposition to Plaintiffs' Motion to Compel the Production of Certain Documents and Consent Motion for an Extension of Time</li> <li>○ May 26, 2004 – Notice of Withdrawal of Plaintiffs' Motion to Compel the Production of Documents Created During the Relevant Time Period Directed at Defendant Schering-Plough (<i>Note: withdrawal applies only to Schering-Plough</i>)</li> <li>○ May 27, 2004 – Consent Motion for an Extension of Time to Oppose the Motion to Compel</li> <li>○ May 27, 2004 – Opposition of the Together Rx Defendants to Plaintiffs' Motion to Compel the Production of Documents</li> <li>○ May 28, 2004 – Notice Of Withdrawal Of Plaintiffs' Motion To Compel The Production Of Documents Created During The Relevant Time Period Directed At Defendant Abbott Laboratories</li> </ul> </li> </ul>

PRIVATE CLASS CASES	MDL DOCKET NO.	ORIGINAL JURISDICTION	STATUS
<b>Master Consolidated Class Action (continued)</b>			<p>(Note: withdrawal applies only to Abbott Laboratories)</p> <ul style="list-style-type: none"> <li>○ June 8, 2004 – Notice of Withdrawal of Plaintiffs' Motion to Compel the Production of Documents Created During the Relevant Time Period Directed at Defendant AstraZeneca. (Note: withdrawal applies only to AstraZeneca)</li> <li>○ June 9, 2004 – Plaintiffs' Reply Memorandum In Support of Motion To Compel The Production of Documents Created During The Relevant Time Period From The Together Rx Defendants</li> <li>○ June 22, 2004 – Order granting Plaintiffs' Motion to Withdraw Motion to Compel Directed at Abbott Laboratories</li> <li>○ June 22, 2004 – Order granting AstraZeneca's Assented to Motion for Extension of Time to File Response to Plaintiffs' Motion to Compel</li> <li>○ June 22, 2004 – Order finding as Moot AstraZeneca's Motion for Extension of Time to Oppose Plaintiffs' Motion to Compel</li> <li>○ Awaiting scheduling of hearing or ruling by Court as to Together Rx Defendants.</li> </ul> <ul style="list-style-type: none"> <li>● July 26, 2004 – <b>Amgen Motion to Dismiss Corrected AMCC <i>sub judice</i></b> <ul style="list-style-type: none"> <li>○ August 9, 2004 – Plaintiffs' Opposition to Amgen Motion to Dismiss Corrected AMCC</li> <li>○ August 31, 2004 – Amgen's Reply In Support of Motion to Dismiss Plaintiffs' Corrected AMCC</li> </ul> </li> <li>● August 24, 2004 – <b>Plaintiffs' Motion to Add B. Braun Medical, Inc. as a Defendant <i>sub judice</i></b> <ul style="list-style-type: none"> <li>○ September 10, 2004 – B. Braun of America Inc.'s Opposition to Plaintiffs' Motion to Add B. Braun Medical Inc. as a Defendant</li> <li>○ September 21, 2004 – <b>Plaintiffs' Motion for Leave to File Reply Brief in Support of Motion to Add B. Braun Medical, Inc. as a Defendant</b> and accompanying Reply</li> </ul> </li> <li>● September 3, 2004 – <b>Plaintiffs' Motion for Class Certification</b> <ul style="list-style-type: none"> <li>○ October 25, 2004 – Track 1 Defendants' Consolidated and Individual Opposition to Plaintiffs' Motion for Class Certification, with supporting declarations and exhibits.</li> <li>○ December 17, 2004 – Plaintiffs' Amended Motion for Class Certification</li> <li>○ December 17, 2004 – Plaintiffs' Reply Memoranda to Consolidated</li> </ul> </li> </ul>

PRIVATE CLASS CASES	MDL DOCKET NO.	ORIGINAL JURISDICTION	STATUS
Master Consolidated Class Action (continued)			<p>and Individual Oppositions to Plaintiffs' Motion for Class Certification</p> <ul style="list-style-type: none"> <li>• September 10, 2004 – <b>B. Braun of America Inc.'s Renewed Motion to Dismiss the Amended Master Consolidated Class Action Complaint <i>sub judice</i></b> <ul style="list-style-type: none"> <li>◦ September 24, 2004 – Plaintiffs' Response in Opposition to B. Braun of America's Renewed Motion to Dismiss the Amended Master Consolidated Complaint and <b>Cross-Motion for Stay Pending Resolution of Plaintiffs' Motion to Compel B. Braun of America Inc. to Make Supplemental 30(b)(6) Designation <i>sub judice</i></b> <ul style="list-style-type: none"> <li>▪ Cross-motion is now moot.</li> </ul> </li> <li>◦ September 30, 2004 – B. Braun of America Inc.'s Opposition to Plaintiffs' Cross-Motion for Stay Pending Resolution of Plaintiffs' Motion to Compel B. Braun of America Inc. to Make Supplemental 30(b)(6) Designation</li> </ul> </li> <li>• October 25, 2004 – <b>Motion to Strike the Declaration of Raymond S. Hartman</b> <ul style="list-style-type: none"> <li>◦ October 25, 2004 – Memorandum in Support of Motion to Strike the Declaration of Raymond S. Hartman</li> <li>◦ November 30, 2004 – Track 1 Defendants' Motion to Strike the Declaration of Raymond S. Hartman</li> <li>◦ December 17, 2004 – Plaintiffs' Memorandum in Opposition to Motion to Strike the Declaration of Raymond S. Hartman</li> </ul> </li> <li>• November 2, 2004 – <b>Joint Motion for Amended Protective Order</b></li> <li>• November 17, 2004 – <b>Defendants' Motion to Compel Third Party Health Net Inc. to Produce Documents pursuant to Subpoena</b> <ul style="list-style-type: none"> <li>◦ December 8, 2004 – Third Party Health Net's Opposition to Motion to Compel Third Party Health Net Inc. to Produce Documents</li> <li>◦ December 13, 2004 – Defendant's Motion for Leave to File a Reply Brief to Third Party Health Net's Opposition to Defendants' Motion to Compel Third Party Health Net Inc. to Produce Documents pursuant to Subpoena</li> <li>◦ December 13, 2004 – Defendants' Reply Memorandum in Further Support of Defendants' Motion to Compel Third Party Health Net</li> </ul> </li> </ul>

PRIVATE CLASS CASES	MDL DOCKET NO.	ORIGINAL JURISDICTION	STATUS
<b>Master Consolidated Class Action (continued)</b>			<p>Inc. to Produce Documents pursuant to Subpoena</p> <ul style="list-style-type: none"> <li>• December 17, 2004 – <b>Plaintiffs' Motion to Strike the Declaration of Eric M. Gaier, Ph.D</b> <ul style="list-style-type: none"> <li>◦ December 22, 2004 – Joint Motion to Extend Time for Opposition to Plaintiffs' Motion to Strike the Declaration of Eric M. Gaier, Ph.D</li> </ul> </li> <li>• December 17, 2004 – <b>Plaintiffs' Motion to Strike the Declaration of Steve J. Young</b> <ul style="list-style-type: none"> <li>◦ December 22, 2004 – Joint Motion to Extend Time for Opposition to Plaintiffs' Motion to Strike the Declaration of Steve J. Young</li> </ul> </li> <li>• December 17, 2004 – <b>Plaintiffs' Motion to Strike Portions of the Declaration of Robert P. Navarro</b> <ul style="list-style-type: none"> <li>◦ December 22, 2004 – Joint Motion to Extend Time for Opposition to Plaintiffs' Motion to Strike Portions of the Declaration of Robert P. Navarro</li> </ul> </li> <li>• December 23, 2004 – <b>Plaintiffs' Motion to Compel Defendant GSK to Produce Documents in Usable Electronic Format</b></li> </ul>
<b>Congress of California Seniors v. Abbott Labs., Inc. et al.</b>	03-CV-10216-PBS	Removed to C.D. Cal.	<ul style="list-style-type: none"> <li>• Consolidated into Master Class Action</li> </ul>
<b>International Union of Operating Engineers, Local No. 68 Welfare Fund v. AstraZeneca PLC et al.</b>	n/a	Removed to D.N.J.	<ul style="list-style-type: none"> <li>• <b>Motion to Remand</b> filed in District of New Jersey prior to transfer; briefed while pending in District of New Jersey</li> </ul>